

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

EDWARD HILL, Jr.,)	
)	C.A. No. 07A-11-003 (JTV)
Employee-Appellant,)	
)	
v.)	
)	
BUMBLE BEE)	
TRANSPORTATION,)	
)	
Employer-Appellee,)	
)	
and)	
)	
UNEMPLOYMENT INSURANCE)	
APPEAL BOARD OF THE STATE)	
OF DELAWARE,)	
)	
Appellee.)	

Submitted: July 7, 2009
Decided: November 3, 2009

Upon Consideration of Appellant's Appeal
From Decision of The Unemployment Insurance Appeal Board
AFFIRMED

VAUGHN, President Judge

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ORDER

Upon consideration of the appellant's brief of the parties and the record of the case, it appears that:¹

1. Edward Hill Jr. appeals from a decision of the Unemployment Insurance Appeal Board that denied his petition for unemployment compensation. The Board decided that the claimant voluntarily left his employment without good cause and was therefore disqualified from receiving unemployment benefits.²

2. The claimant worked for Bumble Bee Transportation from September 2006 until June 29, 2007 as a bus driver and bus aide. The claimant contends that the employer removed him from his bus route on June 29, 2007 because two other people on the bus did not want him there anymore. He also testified that the employer informed him that there were no other routes available and proceeded to take his work phone.

3. The employer contends that the claimant was removed from his route due to inappropriate behavior and gossiping on the bus. The employer testified that he spoke with the claimant about switching to another bus to work as an aide for the same pay. The claimant denies being offered this assignment, but insists that the employer instead offered him a position "under the table," which he refused. The claimant returned to the office on July 5, 2007 to pick up his last paycheck and to turn in his fuel card. According to the employer and the employer's witness, the claimant

¹ The appellee declined to file a brief.

² 19 *Del. C.* §§ 3314(2).

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told the employer that he would not be returning on August 22, 2007.

4. In reviewing decisions from the Board, the court is limited to consideration of the record which was before the administrative agency.³ The court must determine whether the findings and conclusions of the Board are free from legal error and are supported by substantial evidence in the record.⁴ Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.⁵ The court does not weigh the evidence, determine questions of credibility, or make its own factual findings.⁶ The reviewing court merely determines if the evidence is legally adequate to support the agency's factual findings.⁷

5. The claimant raises two issues on appeal. First, he argues that a new witness has come forward and can testify that she was told by the employer that he indeed fired the claimant. Since the proposed testimony was not part of the record below, it may not be considered in this court's determination of whether the evidence

³ *Hubbard v. Unemployment Ins. Appeal Bd.*, 352 A.2d 761, 763 (Del. 1976).

⁴ *Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265, 1266 (Del. 1981); *Pochvatilla v. United States Postal Serv.*, 1997 WL 524062, at *2 (Del. Super.); 19 *Del. C.* § 3323(a) ("In any judicial proceeding under this section, the findings of the [UIAB] as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the Court shall be confined to questions of law.").

⁵ *Oceanport Ind. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. 1986).

⁶ *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

⁷ *Majaya v. Sojourners' Place*, 2003 WL 21350542 (Del. Super.) , at *4; See 19 *Del. C.* § 3323(a) (providing that, absent fraud, the factual findings of the Board shall be conclusive and the jurisdiction of a reviewing court shall be confined to questions of law).

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supported the findings of the Board.⁸

6. Next, the claimant argues that he is able to establish good cause through his pay stubs, which demonstrate that his hours were reduced between June 24, 2007 and July 6, 2007. Good cause for quitting a job has been defined as a reason which “would justify one in voluntarily leaving the ranks of the employed and joining the ranks of the unemployed.”⁹ Good cause may include circumstances such as a substantial reduction in wages, work hours, or a substantial deviation in working conditions from the original agreement of hire to the employee’s detriment.¹⁰ The burden is on the claimant employee to show there was good cause for leaving and that he or she is therefore entitled to unemployment benefits.¹¹

7. The claimant failed to present any evidence, including pay stubs, to the Board which would demonstrate that the new assignment would result in a reduction of hours. Since the pay stubs were not part of the record below, they may not be considered in this court’s determination of whether the evidence supported the findings of the Board.¹²

⁸ *Hubbard*, 352 A.2d at 763.

⁹ *O’Neal’s Bus Serv., Inc. v. Employment Sec. Comm’n*, 269 A.2d 247, 249 (Del. Super. 1970).

¹⁰ *Molinaro v. Unemployment Ins. Appeal Bd.*, 2004 WL 2828048, at *1 (Del. Super.).

¹¹ *White v. Sec. Link*, 658 A.2d 619, 622 (Del. Super. 1994).

¹² *Hubbard*, 352 A.2d at 763.

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8. The employer testified that the claimant would not have suffered any reduction in compensation if he accepted the new assignment. The Board found the employer's testimony credible and the claimant failed to establish that he left his employment with good cause. Under these circumstances, the Board's decision is clearly supported by substantial evidence.

9. There is substantial evidence to support the Board's determination that the claimant voluntarily left his employment without good cause. Since the Board's decision is supported by substantial evidence and is free of legal error, it is ***affirmed***.

IT IS SO ORDERED.

/s/ James T. Vaughn, Jr.

President Judge

oc: Prothonotary
cc: Order Distribution
Mr. Edward J. Hill
Bumble Bee Transportation
File